

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ROBERT L. GREEN,)	
)	
Petitioner,)	
)	
vs.)	No. CIV-10-133-C
)	
JAMES RUDEK,)	
)	
Respondent.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Doyle W. Argo, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Argo entered a Report and Recommendation on May 25, 2010. to which Petitioner has timely objected. The Court therefore considers the matter de novo.

Petitioner's only objection is that the Magistrate Judge failed to apply Kirk v. Louisiana, 536 U.S. 635 (2002), to find a right to relief. However, the Report and Recommendation clearly and correctly concludes that, even assuming the Fourth Amendment issue is not procedurally barred, it was waived by the entry of a guilty plea and is factually without merit.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, denies this petition for habeas corpus relief. A judgment will enter accordingly.

IT IS SO ORDERED this 11th day of June, 2010.



ROBIN J. CAUTHRON
United States District Judge